

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 261

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO REAL PROPERTY; REQUIRING DISCLOSURE OF ESTIMATED
FUTURE PROPERTY TAXES AND OTHER INFORMATION TO A BUYER OF
RESIDENTIAL REAL PROPERTY; PROVIDING FOR A WAIVER; GRANTING
IMMUNITY FROM LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-13-1 NMSA 1978 (being Laws 1991,
Chapter 74, Section 1) is amended to read:

"47-13-1. SHORT TITLE.--~~[Sections 1 through 3 of this
act]~~ Chapter 47, Article 13 NMSA 1978 may be cited as the "Real
Estate Disclosure Act".

Section 2. A new section of the Real Estate Disclosure
Act, Section 47-13-1.1 NMSA 1978, is enacted to read:

"47-13-1.1. [NEW MATERIAL] DEFINITIONS.--As used in the
Real Estate Disclosure Act:

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underscoring material = new
[bracketed material] = delete

1 A. "estimated amount of property tax levy" means
2 the product of one-third of the listed price of the residential
3 real property being sold or otherwise transferred in the
4 transaction multiplied by the current property tax rates
5 applicable to the property if those tax rates have been imposed
6 in accordance with Section 7-38-34 NMSA 1978 for the current
7 year for the county in which the property is located or, in all
8 other cases, by the tax rates for the prior year;

9 B. "listed price" means the current price at which
10 the residential property is being marketed;

11 C. "seller's broker" means a real estate broker
12 acting on behalf of a residential property seller;

13 D. "buyer's broker" means a real estate broker
14 acting on behalf of a prospective residential property
15 purchaser; and

16 E. "listing packet" includes all publicly available
17 documents on a specific residential property."

18 Section 3. A new section of the Real Estate Disclosure
19 Act, Section 47-13-4 NMSA 1978, is enacted to read:

20 "47-13-4. [NEW MATERIAL] FINDING--DISCLOSURE OF
21 INFORMATION REQUIRED IN CERTAIN REAL ESTATE TRANSACTIONS.--

22 A. The legislature finds that property tax levied
23 on a residential property for the current year can be a
24 misleading guide to property tax levies in the years following
25 the sale of that property and that a prospective buyer needs

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1 information regarding the property tax obligation in the year
2 following the property's sale to properly judge the
3 affordability of a contemplated purchase.

4 B. At the time of listing a residential property
5 for sale, the property seller or the seller's broker shall
6 request from the county assessor the estimated amount of
7 property tax levy with respect to the property and shall
8 specify the listed price as the value of the property to be
9 used in the estimate. The property seller or the seller's
10 broker shall include a copy of the assessor's response pursuant
11 to Subsection D of this section in writing in the listing
12 packet.

13 C. Prior to making an offer to purchase residential
14 property, a buyer's broker shall provide to the prospective
15 buyer the county assessor's estimated amount of property tax
16 levy, as shown in the listing packet. The prospective buyer
17 shall acknowledge in writing the receipt of the estimated
18 amount of property tax levy.

19 D. Upon request, a county assessor shall furnish in
20 writing, pursuant to the provisions of Subsection E of this
21 section, an estimated amount of property tax levy with respect
22 to a residential property in the county, calculated at a
23 property value specified by the requestor. The request shall
24 be complied with by the close of business of the business day
25 following the day the request is received. A county may

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1 satisfy this obligation through an internet site or other
2 automated format that allows a user to print the requested
3 estimated amount of property tax levy. A document associated
4 with the request or the response is not a public record or a
5 valuation record. County assessors shall not use information
6 provided with a request, including the specified value, to
7 assess the valuation of the property. Neither the county nor
8 any jurisdiction levying a tax against residential property in
9 the county is bound in any way by the estimate given.

10 E. A county assessor's estimated amount of property
11 tax levy with respect to a residential property in the county
12 shall contain the following:

13 (1) the actual amount of property tax levied
14 for the property for the current calendar year if the tax rates
15 for the current year have been imposed in accordance with
16 Section 7-38-34 NMSA 1978 for the county in which the property
17 is located or, in all other cases, the amount of property tax
18 levied with respect to the property for the prior calendar
19 year;

20 (2) the estimated amount of property tax levy,
21 as calculated by the county assessor, for the property for the
22 calendar year following the year in which the transaction takes
23 place; and

24 (3) a disclaimer substantially similar to the
25 following:

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1 "The estimated amount of property tax levy is calculated
2 using the stated price and estimates of the applicable tax
3 rates. The county assessor is required by law to value
4 the property at its "current and correct" value, which may
5 differ from the listed price. Further, the estimated tax
6 rates may be higher or lower than those that will actually
7 be imposed. Accordingly, the actual tax levy may be
8 higher or lower than the estimated amount. New Mexico law
9 requires your real estate broker or agent to provide you
10 an estimate of the property tax levy on the property on
11 which you have submitted or intend to submit an offer to
12 purchase. All real estate brokers and agents who have
13 complied with these disclosure requirements shall be
14 immune from suit and liability arising from suit relating
15 to the estimated amount of property tax levy."

16 F. A prospective buyer may waive the disclosure
17 requirements of this section by signing a written document
18 prior to the time the offer to purchase is to be made in which
19 the buyer acknowledges that the required estimated amount of
20 property tax levy is not readily available and waives
21 disclosure of the estimated amount of property tax levy.

22 G. All real estate brokers and agents who have
23 complied with the provisions of this section shall be immune
24 from suit and liability arising from or relating to the
25 estimated amount of property tax levy.

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